

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**MUMBAI BENCH, MUMBAI.**

**ORIGINAL APPLICATION NO.33 OF 2018**

**Dated this Thursday, the 10<sup>th</sup> day of January, 2018**

***CORAM:- HON'BLE SHRI ARVIND J. ROHEE, MEMBER (J)  
HON'BLE SHRI R. VIJAYKUMAR, MEMBER (A)***

*Roshan Lal Makkar aged 42 years,  
presently working as Scientist D in  
Photonics Division of Society for Applied Microwave  
Electronics Engineering and Research (SAMEER),  
IIT Campus, Powai, Mumbai 400 076  
and residing at EMP-63, Flat No.703,  
Ever Shine Millennium Paradise, Thakur Village,  
Kandivali (E), Mumbai 400 101.* ***-Applicant***

***(By Advocate Shri Ramesh Rammurthy)***

**Versus**

1. *Union of India, through the Secretary,  
Department of Electronics and Information Technology,  
Ministry of Electronics and Information Technology,  
Government of India, Electronics Niketan,  
6 CGO Complex, Lodhi Road,  
New Delhi 110 003.*
2. *The Director,  
Society for Applied Microwave Electronics Engineering  
and Research (SAMEER) IIT Campus,  
Powai, Mumbai 400 076.*
3. *The Registrar,  
Society for Applied Microwave Electronics Engineering  
and Research (SAMEER) IIT Campus,  
Powai, Mumbai 400 076.* ***- Respondents.***

**O R D E R (ORAL)**  
***Per:- Hon'ble Shri A.J.Rohee, Member (Judicial)***

Today when the matter is called

out for admission, heard Shri Ramesh Rammurthy, learned Advocate for applicant. We have carefully perused the case record.

The applicant in this OA seeks the following reliefs :-

*“8(a). That this Hon'ble Tribunal be pleased to hold and declare that in action on the part of the Respondent No.1 to decide the representation of the Applicant dated 30/8/2015 against adverse remarks and below bench mark grading of the years 2012, 2013 and 2014 is bad in law, arbitrary and discriminatory.*

*(b) This Hon'ble Court be pleased to direct the Respondent No.1 to decide the representation of the Applicant dated 30/8/2015 (Annexure “A-9”) in respect of adverse entries and below bench mark grading for the years 2012, 2013 and 2014 and direct the said Respondent No.1 to decide the same within a fixed time limit by passing a speaking order.*

*(c) That this Hon'ble Tribunal in consequence of prayer clause (a) and (b) above direct the Respondents to reconsider the case of the Applicant for promotion as Scientist-D/E from the due date with all consequential benefits including fixation of pay, arrears, seniority by convening review DPC if so required in the matter.*

*(d) That such other and further orders be passed as the facts and circumstances of the case may require;*

*(e) That costs of this Application be provided for.”*

**2.** The applicant is presently working

as Scientist 'D' in Photonics Division of Society for Applied Microwave Electronics Engineering and Research (SAMEER) under the respondent No.2. In this OA, he has grievance regarding adverse remarks recorded by the respondent No.2 in his Annual Performance Appraiser Report (APAR) for the years 2012, 2013 and 2014. He has received copies of these APARs on 07.08.2015 and, thereafter, he submitted a representation dated 30.08.2015 (Annexure A-9) to the respondent No.1, in view of the instructions given in Office Memorandum dated 07.08.2015 (Annexure A-8) issued by the respondent No.3. However, according to him, nothing was heard from the other end so far.

**3.** It is pointed out that applicant has been graded very "good" by the Reporting and Reviewing Authorities. However, Director SAMEER has graded him "good", which is below benchmark for promotion and also recorded some adverse comments.

**4.** In view of this, it is necessary for the respondent No.1 to consider the representation of the applicant for expungement of adverse remarks and for upgradation of grading 'Good', which is below the benchmark.

**5.** This being so, at present, there is no impunged order, which can be judicially reviewed by the Tribunal, since no decision has been taken by the respondent No.1 on pending representation of applicant.

**6.** In view of this, we are of the considered view that ends of justice will be better served in case appropriate directions are issued in the matter.

**7.** Respondent No.1 is, therefore, directed to consider and pass a reasoned and speaking order on the pending representation dated 30.08.2015 (Annexure A-9) submitted of the applicant, in accordance with law, within a period of six weeks from the date of receipt of certified copy of this order.

**8.** The order so passed shall then be communicated to the applicant at the earliest, who will be at liberty to approach the appropriate forum in case his grievances still persists.

**9.** The OA stands disposed of with the above directions, at the admission stage, without issuing notice to the respondents and without making comments on the merits of the claim.

**10.** Registry is directed to dispatch certified copy of this order to both the parties for taking appropriate steps in the matter.

*(R. Vijaykumar)*  
**Member (Administrative)**

*(Arvind J. Rohee)*  
**Member (Judicial)**

*kmg\**